

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BANK OF AMERICA, N.A.,

Plaintiff,

v.

SAYERS CONSTRUCTION, LLC, et al.,

Defendants.

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1:21-CV-1097-RP

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Dustin Howell concerning Plaintiff's Motion for Summary Judgment, (Dkt. 20). (R. & R., Dkt. 43). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Howell issued his report and recommendation on December 27, 2023. (*Id.*). As of the date of this order, no party has filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 43), is **ADOPTED**. Plaintiff's motion for summary judgment is **GRANTED**.

As this case was stayed pending Defendant's bankruptcy proceedings, more than a year has elapsed since Plaintiff's summary judgment motion. Accordingly, **IT IS ORDERED** that Plaintiff shall provide an updated proposed order as to damages for its breach of contract claim, prejudgment interest, and any additional expenses on or before **February 5, 2024**.

SIGNED on January 22, 2024.

A handwritten signature in blue ink, appearing to read 'R. Pitman', is written above a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE